

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

ERIC BOWERS,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:19-00437-CV-RK
)	
435 SOUTH, LLC, KATHY BOOS,)	
)	
Defendants.)	

**ORDER DENYING PLAINTIFF’S MOTION FOR PARTIAL SUMMARY JUDGMENT
AND FINDING PLAINTIFF’S MOTION TO SUPPLEMENT AS MOOT**

This is a copyright action brought by Plaintiff Eric Bowers against Defendant 435 South LLC and Kathy Boos. Before the Court are Bower’s Motion for Partial Summary Judgment (Doc. 8) and Bower’s Motion to Supplement his Motion for Summary Judgment (Doc. 15.) For the reasons below, the motion for summary judgment is **DENIED** without prejudice as to Plaintiff’s right to file a new motion after discovery had been conducted. The motion to supplement is therefore, found to be **MOOT**.

Plaintiff initiated this case on June 5, 2019. Defendant has not yet filed an answer. Plaintiff filed its motion for partial summary judgment on July 3, 2019. (Doc. 8.) The court issued its Rule 16 Order on July 25, 2019, (Doc. 13), which instructed the parties to conduct their Rule 26 conference by August 25, 2019, and a joint proposed scheduling order within 14 days of the Rule 26 conference.

Plaintiff supports his motion for summary judgment with an affidavit and other exhibits. Defendant contends the motion is premature. The Court agrees. The parties have not conducted discovery. “Discovery does not have to be completed before a court can grant summary judgment, but summary judgment is proper only after the nonmovant has had adequate time for discovery.” *In re Temporomandibular Joint (TMJ) Implants Prod. Liab. Litig.*, 113 F.3d 1484, 1489-90 (8th Cir. 1997) (citations omitted); *see also* Fed. R. Civ. P. 56(d).

Accordingly, pursuant to Rule 56(d)(1), Plaintiff's motion for summary judgment (Doc. 8) is **DENIED** without prejudice. As the Court has now denied Plaintiff's motion for summary judgment, Plaintiff's motion for leave to file a supplement to his motion for summary judgment (Doc. 15) is found to be **MOOT**.

IT IS SO ORDERED.

s/ Roseann A. Ketchmark
ROSEANN A. KETCHMARK, JUDGE
UNITED STATES DISTRICT COURT

DATED: September 9, 2019